

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 8082 of 2004(K)

AGAINST THE ORDER DATED 20/10/03 IN EP.NO.41/1997 IN
OS.272/1984 of MUNSIFF COURT, THALIPARAMBA

.....
PETITIONER:

THALIYIL VEETIL NARAYANAN, SON OF
DEVI AMMA, KUTTIYERI AMSOM, PANANGATTOOR DESOM,
P.O.KUTTIYERI, TALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADV. SMT.PREETHY KARUNAKARAN
SRI.R.RAJESH KORMATH
SMT.MEENA.A.
SMT.SANJANA R.NAIR
SRI.JAYKAR.K.S.
SRI.RAHUL VARMA
SRI.V.S.ROBIN

RESPONDENTS:

1. KAYIKUNNATH PUTHIYA VEETIL JANAKI,
W/O.LATE CHOORKIKKAT VEETIL NARAYANAN,
KUTTIYERI AMSOM, MAVICHERI DESOM, P.O.KUTTIYERI,
TALIPARAMBA TALUK, KANNUR DISTRICT.
2. PALANGADAM RAYAROTH INDIRA, WIDOW OF
K.P.SREEDHARAN, PATTUVAM AMSOM, MULLOOL DESOM,
P.O.MULLOOL, TALIPARAMBA TALUK, KANNUR DISTRICT.
3. SREEJITH (MINOR), S/O.PALANGADAM
RAYAROTH INDIRA, PATTUVAM AMSOM, MULLOOL DESOM,
P.O.MULLOOL, TALIPARAMBA TALUK, KANNUR DISTRICT.
4. AJITH (MINOR), S/O.PALANGADAM RAYAROTH
INDIRA, PATTUVAM AMSOM, MULLOOL DESOM,
P.O.MULLOOL, TALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD
SRI.GEORGE G.POOTHICOTE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

.....
W.P.(C)No.8082 OF 2004
.....

DATED THIS THE 5TH JUNE, 2007

J U D G M E N T

Ext.P3 judgment of the appellate court allowing an appeal preferred by the judgment-debtors against **Ext.P2** order in an execution petition seeking execution of a decree for specific performance of a contract for sale is under challenge in this proceeding under Article 227 of the Constitution initiated by the decree-holder. There was a serious issue regarding the maintainability of the appeal. The petitioner-decree-holder contended that since the impugned order did not in strict sense come within the scope of Order XLIII Rule 1(i) C.P.C., the appeal ought to have been found to be not maintainable. But it is clear from Ext.P4 objections filed by the judgment-debtors-respondents that pursuant to Ext.P3 judgment, they have filed their objections. The ground raised by the writ petitioner in this case is too technical for receiving acceptance in the supervisory jurisdiction of this Court under Article 227 of the Constitution. I feel that the petitioner must be more anxious to secure the fruits of the decree by getting the draft sale deed finalised and taking delivery of the property. Since Ext.P4 objections have been filed by the respondents on 20.10.2003, i.e., some five months prior to the institution of this proceeding by the

decree-holder, it is only proper that the execution court takes a decision on the acceptability of the draft sale deed (if a decision is not already taken) at the earliest.

I dispose of the Writ Petition refusing to interfere with Ext.P3 in the supervisory jurisdiction of this Court but I direct the execution court to expedite execution of the decree. If a decision regarding settlement of the draft sale deed is not taken so far, the execution court will take such a decision after hearing both sides at the earliest and at any rate within one month of receiving copy of this judgment.

No costs.

(PIUS C. KURIAKOSE, JUDGE)

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